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Mr. T. L. K. Smull
Contracting Officer
National Aeronautics and Space Administration
Washington, D.C. 20546

Refer to SC:CK.Va

Dear Mr. Smull:

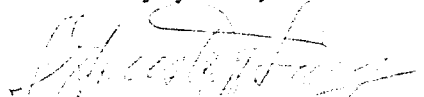
This letter constitutes the American Bar Foundation's report to NASA for the quarter ending September 30, 1965 for the research study on the Laws Relating to Activities in Space Contract NSR 14-041-001. The financial reports are being prepared by the accounting department and will be submitted when completed. It will be appreciated if quarterly payment is made when the financial reports are received.


In this period Chapters I, II, IV and V were drafted and redrafted in whole or part. Research and further revisions and additions are continuing to be made while work is also going forward on additional chapters. Revisions of present drafts and additional materials should be available by the end of the last quarter of 1965.

Howard Taubenfeld and Houston Lay conferred in person in Washington in September and both were able to confer with various authorities in the space law field as well as with some members of our Advisory Committee. Howard Taubenfeld met with Professor Cooper of Princeton several times during the summer.

Although technically failing in the last quarter of 1965, it is noted that a meeting of the Advisory Committee was held October 4, 1965 in the offices of the Chairman, Mr. Arthur Dean. A copy of a brief summary of the discussions at that meeting is attached hereto.

Sincerely yours,


S. Houston Lay, Director
International Law Program


SHL:ke
Enc.

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MEMORANDUM

TO: Arthur H. Dean, Esquire - Chairman
Members of Advisory Committee on the Project on Laws Relating to
Activities in Space

FROM: S. Houston Lay and Howard Taubenfeld

The first meeting of the Committee was called to order at 10:00 a.m. October 4, 1965, at 48 Wall Street, New York, New York. Present for the project were S. Houston Lay and Howard J. Taubenfeld.

The following members of the Committee were in attendance for all or part of the conference: Arthur H. Dean, Chairman, Paul G. Dembling, Benjamin Forman, Andrew G. Haley, Leon S. Lipson, Louis Harkey Mayo, Myres McDougal, Leonard C. Meeker, John J. Roscia, and Walter D. Sohler.

Members of the Committee unable to attend were: Max Chopnick, John Cobb Cooper, Joseph M. Goldson, John A. Johnson, Milton Katz, David F. Maxwell, and Horace P. Moulton.

Mr. Dean opened the meeting and referred to communications from Mr. Cooper inquiring about the responsibility of the Committee, the scope of the project, and the use of terminology.

The prefatory material will contain the customary acknowledgments and unequivocal statements that the authors alone are responsible for any expressions of opinion. In the event the Committee disagrees strongly with a particular statement contained in the final manuscript, this fact

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can be briefly noted in the preface or in a footnote. As the various chapters are drafted and redrafted, the terms used will be defined and explained as necessary to avoid misunderstandings and ambiguities. It was also noted that the study will not be an official publication of any agency of the United States Government. While an American Bar Foundation project, the Reporters only are responsible for the content of the book being prepared.

Emphasis was placed on the fact that the materials before the Committee were preliminary and incomplete working drafts. The draft of Chapter II was distributed only at the meeting with no opportunity for members of the Committee to read it in advance. Drafts of an introduction, Chapters I, IV and V had been sent to members by mail. A revised outline of Chapter III had also been distributed.

There was general agreement that Chapter I properly contained a description of the physical aspects of outer space pertinent to the study of the laws relating to activities in space although it was suggested that it should contain more technology of space. An offer to have the contents read by NASA scientists was received and gladly accepted. It was suggested that the introductory materials which include the first two chapters as well as the preface and introduction should set forth the scope, format, and justification for the study.

It was further suggested that this might include a recognition that the book will be used by persons deeply involved in problems relating to activities in space as well as by persons having only a limited knowledge of space activities and their problems, and that the passage of time and major developments also serve to justify a new study.

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Use of terms and concepts such as "space," and "outer space" should be indicated and the major legal problems should be identified. The distinction between UN resolutions and treaties should be kept in mind. It was noted that Chapter II which had not been read might cover part of these problems in which case the question would be one of arrangement of the materials.

There was discussion of and general agreement that it would be most fruitful to approach national activities in space as potentially cooperative as well as potential sources of international conflicts of interest. It was suggested and agreed that Chapter II and the Chapter on communications should reflect this emphasis on potentials for cooperation as well as conflict. Other topics explored with the Committee included the prospective military and economic potentials of space; surveillance systems; the importance of a peaceful regime in space; and the dangers in the present world community of the use of undefined terms such as "peaceful uses," "military uses," and "aggressive purposes" which lack agreed content and can be abused for propaganda purposes by the cynical.

The outline of Chapter III was discussed and several useful suggestions for restructuring were made. It was suggested that Chapter III was not more basic than other chapters and perhaps the name might be changed. It was agreed that there would be included in Chapter III or elsewhere in the book a brief discussion of the sources of the law of activities in space.

Helpful suggestions were made concerning the scope and emphasis of Chapter IV on Communications. The authors and the Committee agreed that in the final version emphasis would be on the exploration of and the critical analysis of fundamental issues. For example, it was suggested that comparisons be made between the controls applicable to Comsat


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and to other communications utilities rather than to categorizing Comsat as a private or governmental establishment, which is not particularly significant. Other useful suggestions included shortening some sections relating to fairly routine and customary procedures such as the arbitral arrangements and expanding other sections such as those dealing with other possible communications satellite systems for ABC, DOD, the USSR and regional groupings.

Chapter V on Liability was helpfully reviewed. Among suggestions by the authors and the Committee for a reworked chapter were the inclusion of materials from the just completed UN sessions; emphasis on the prevention of accidents and the rebuilding of injured parties; the use of precise descriptions rather than terms which might be misconstrued or misunderstood in different legal systems and languages; and a focus on the problems of determining applicable law and the elements of liability.

Members of the Committee were asked to send to S. Houston Lay at the American Bar Foundation by the end of October any additional comments they wished to make. Written suggestions from the members absent will be most welcome. A tentative draft of Chapter III was promised for mid or late November and a rough timetable was agreed to with a second meeting of the Committee, with a near complete draft in hand, contemplated probably for March, 1966.

The authors want to thank the Committee members for their many helpful suggestions and the specific offers of expert help which were made.


SHL/ba
HJT